

§ 4.220

shall inform all persons having an interest in the estate of the decedent, including persons having claims or accounts against the estate, to be present at the hearing or their rights may be lost by default.

(b) The notice shall state further that the hearing may be continued to another time and place. A continuance may be announced either at the original hearing by the administrative law judge or by an appropriate notice posted at the announced place of hearing on or prior to the announced hearing date and hour.

DEPOSITIONS, DISCOVERY, AND PREHEARING CONFERENCE

§ 4.220 Production of documents for inspection and copying.

(a) At any stage of the proceeding prior to the conclusion of the hearing, a party in interest may make a written demand, a copy to be filed with the administrative law judge, upon any other party to the proceeding or upon a custodian of records on Indians or their trust property, to produce for inspection and copying or photographing, any documents, papers, records, letters, photographs, or other tangible things not privileged, relevant to the issues which are in the other party's or custodian's possession, custody, or control. Upon failure of prompt compliance the administrative law judge may issue an appropriate order upon a petition filed by the requesting party. At any time prior to closing the record, the administrative law judge upon his own motion, after notice to all parties, may issue an order to any party in interest or custodian of records for the production of material or information not privileged, and relevant to the issues.

(b) Custodians of official records shall furnish and reproduce documents, or permit their reproduction, in accordance with the rules governing the custody and control thereof.

§ 4.221 Depositions.

(a) *Stipulation.* Depositions may be taken upon stipulation of the parties. Failing an agreement therefor, depositions may be ordered under paragraphs (b) and (c) of this section.

43 CFR Subtitle A (10-1-01 Edition)

(b) *Application for taking deposition.* When a party in interest files a written application, the administrative law judge may at any time thereafter order the taking of the sworn testimony of any person by deposition upon oral examination for the purpose of discovery or for use as evidence at a hearing. The application shall be in writing and shall set forth:

(1) The name and address of the proposed deponent;

(2) The name and address of that person, qualified under paragraph (d) of this section to take depositions, before whom the proposed examination is to be made;

(3) The proposed time and place of the examination, which shall be at least 20 days after the date of the filing of the application; and

(4) The reasons why such deposition should be taken.

(c) *Order for taking deposition.* If after examination of the application the administrative law judge determines that the deposition should be taken, he shall order its taking. The order shall be served upon all parties in interest and shall state:

(1) The name of the deponent;

(2) The time and place of the examination which shall not be less than 15 days after the date of the order except as stipulated otherwise; and

(3) The name and address of the officer before whom the examination is to be made. The officer and the time and place need not be the same as those requested in the application.

(d) *Qualifications of officer.* The deponent shall appear before the administrative law judge or before an officer authorized to administer oaths by the law of the United States or by the law of the place of the examination.

(e) *Procedure on examination.* The deponent shall be examined under oath or affirmation and shall be subject to cross-examination. The testimony of the deponent shall be recorded by the officer or someone in his presence. An applicant who requests the taking of a person's deposition shall make his own arrangements for payment of any costs incurred.